

Senate BILL NO. 268

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INTRODUCED BY

Keena Carrozzini
Keena Carrozzini *Rep. 197* *Eric Adams* *Holland*

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE MONTANA STATE LOTTERY; AMENDING SECTIONS 2-18-103, 17-7-502, 18-4-132, 18-8-103, 23-5-110, 23-5-112, AND 23-5-114, MCA; REPEALING SECTIONS 15-30-246, 15-30-247, 23-7-101, 23-7-102, 23-7-103, 23-7-110, 23-7-201, 23-7-202, 23-7-210, 23-7-211, 23-7-212, 23-7-301, 23-7-302, 23-7-305, 23-7-306, 23-7-307, 23-7-310, 23-7-311, 23-7-312, 23-7-401, 23-7-402, 23-7-410, 23-7-411, AND 23-7-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-103, MCA, is amended to read:

"2-18-103. Officers and employees excepted. (1) Parts 1 and 2 do not apply to the following positions in state government:

- (a) elected officials;
- (b) county assessors and their chief ~~deputy~~ deputies;
- (c) employees of the office of consumer counsel;
- (d) judges and employees of the judicial branch;
- (e) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;
- (f) officers or members of the militia;
- (g) agency heads appointed by the governor;
- (h) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;
- (i) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;
- (j) teachers under the authority of the department of corrections or the department of public health and human services;

1 (k) investment officer, assistant investment officer, executive director, and three professional staff
2 positions of the board of investments;

3 (l) four professional staff positions under the board of oil and gas conservation;

4 ~~(m) assistant director for security of the Montana state lottery;~~

5 ~~(n)~~(m) executive director and senior investment officer of the Montana board of science and
6 technology development;

7 ~~(o)~~(n) executive director and employees of the state compensation insurance fund;

8 ~~(p)~~(o) state racing stewards employed by the executive secretary of the Montana board of
9 horseracing;

10 ~~(q)~~(p) executive director of the Montana wheat and barley committee;

11 ~~(r)~~(q) commissioner of banking and financial institutions; and

12 ~~(s)~~(r) training coordinator for county attorneys.

13 (2) Employees of an entity of the legislative branch, other than the office of consumer counsel, are
14 exempt from the application of 2-18-1011 through 2-18-1013. With respect to entities of the legislative
15 branch, other than the office of consumer counsel:

16 (a) as used in parts 1 through 3 of this chapter, references to the "department of administration"
17 or "department" apply to the legislative council established by 5-11-101, which may delegate administrative
18 duties to the legislative services division established by 5-11-111;

19 (b) as used in 2-18-102, the term "governor" applies to the legislature; and

20 (c) as used in 2-18-204, the term "budget director" applies to the "approving authority" as defined
21 in 17-7-102."

22
23 **Section 2.** Section 17-7-502, MCA, is amended to read:

24 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
25 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
26 without the need for a biennial legislative appropriation or budget amendment.

27 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
28 with both of the following provisions:

29 (a) The law containing the statutory authority must be listed in subsection (3).

30 (b) The law or portion of the law making a statutory appropriation must specifically state that a

1 statutory appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
3 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;
4 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
5 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
6 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
7 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
8 23-5-610; 23-5-612; 23-5-631; ~~23-7-301; 23-7-402~~; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
9 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
10 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
11 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;
12 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

13 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
14 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
15 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
16 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
17 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
18 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
19 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
20 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
21 July 1, 2001.)"

22

23 **Section 3.** Section 18-4-132, MCA, is amended to read:

24 **"18-4-132. Application.** (1) Except as provided in 18-4-313, which applies retroactively to
25 telecommunications equipment and systems and data processing equipment acquired under existing
26 contracts, leases, or rental agreements, and subject to the terms of such agreements, this chapter applies
27 only to contracts solicited or entered into after January 1, 1984, unless the parties agree to its application
28 to a contract solicited or entered into prior to January 1, 1984.

29 (2) This chapter applies to expenditure of public funds irrespective of their source, including federal
30 assistance money, by this state acting through a governmental body, as defined in 18-4-123, under any

1 contract; ~~but~~ However, this chapter does not apply to either grants or contracts between the state and
 2 its political subdivisions or other governments, except as provided in part 4. This chapter also applies to
 3 the disposal of state supplies. ~~Nothing in this~~ This chapter or ~~in rules adopted thereunder prevents~~ under
 4 this chapter do not prevent any governmental body or political subdivision from complying with the terms
 5 and conditions of any grant, gift, bequest, or cooperative agreement.

6 (3) This chapter does not apply to construction contracts.

7 (4) This chapter does not apply to expenditures of or the authorized sale or disposal of equipment
 8 purchased with money raised by student activity fees designated for use by the student associations of the
 9 university system.

10 ~~(5) This chapter does not apply to contracts entered into by the Montana state lottery that have~~
 11 ~~an aggregate value of less than \$250,000."~~

12
 13 **Section 4.** Section 18-8-103, MCA, is amended to read:

14 **"18-8-103. Exemptions.** This part does not apply to employment of:

15 (1) registered professional engineers, surveyors, real estate appraisers, or registered architects;

16 (2) physicians, dentists, or other medical, dental, or health care providers;

17 (3) expert witnesses hired for use in litigation, hearings officers hired in rulemaking and contested
 18 case proceedings under the Montana Administrative Procedure Act, or attorneys as specified by executive
 19 order of the governor;

20 (4) consulting actuaries to the public retirement boards or the state compensation insurance fund;

21 or

22 (5) private consultants employed by the student associations of the university system with money
 23 raised from student activity fees designated for use by those student associations; ~~or~~

24 ~~(6) private consultants employed by the Montana state lottery."~~

25
 26 **Section 5.** Section 23-5-110, MCA, is amended to read:

27 **"23-5-110. Public policy of state concerning gambling.** (1) The legislature finds that for the
 28 purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt
 29 a public policy regarding public gambling activities in Montana. The legislature therefore declares it is
 30 necessary to:

1 (a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens,
2 and others that the gambling industry in this state is fair and is not influenced by corrupt persons,
3 organizations, or practices;

4 (b) protect legal public gambling activities from unscrupulous players and vendors and detrimental
5 influences;

6 (c) protect the public from unscrupulous proprietors and operators of gambling establishments,
7 games, and devices;

8 (d) protect the state and local governments from those who would conduct illegal gambling
9 activities that deprive those governments of their tax revenues;

10 (e) protect the health, safety, and welfare of all citizens of this state, including those who do not
11 gamble, by regulating gambling activities; and

12 (f) promote programs necessary to provide assistance to those who are adversely affected by
13 legalized gambling, including compulsive gamblers and their families.

14 (2) The legislature adopts the policy that an applicant for a license or permit or other department
15 approval under parts 1 through 8 of this chapter does not have a right to the issuance of a license or permit
16 or the granting of the approval sought. The issuance of a license or permit issued or other department
17 approval granted pursuant to the provisions of parts 1 through 8 of this chapter is a privilege revocable only
18 for good cause. A holder does not acquire a vested right in the license or permit issued or other department
19 approval granted. A license or permit issued under parts 1 through 8 of this chapter may not be sold,
20 assigned, leased, or transferred.

21 (3) Revenue to fund the expense of administration and control of gambling as regulated by parts
22 1 through 8 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities,
23 except the gambling activities of the ~~Montana state lottery and the parimutuel industry.~~"

24
25 **Section 6.** Section 23-5-112, MCA, is amended to read:

26 **"23-5-112. Definitions.** Unless the context requires otherwise, the following definitions apply to
27 parts 1 through 8 of this chapter:

28 (1) "Applicant" means a person who has applied for a license or permit issued by the department
29 pursuant to parts 1 through 8 of this chapter.

30 (2) "Application" means a written request for a license or permit issued by the department. The

1 department shall adopt rules describing the forms and information required for issuance of a license.

2 (3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be
3 inspected by the department and that randomly selects the numbers.

4 (4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5
5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with
6 each letter above one of the columns. More than 75 numbers may not be used. One number must appear
7 in each square, except for the center square, which may be considered a free play. Numbers are randomly
8 drawn using authorized equipment until the game is won by the person or persons who first cover one or
9 more previously designated arrangements of numbers on the bingo card.

10 (5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment,
11 announces the order of the numbers drawn in live bingo.

12 (6) "Card game table" or "table" means a live card game table:

13 (a) authorized by permit and made available to the public on the premises of a licensed gambling
14 operator; or

15 (b) operated by a senior citizen center.

16 (7) "Card game tournament" means a gambling activity for which a permit has been issued
17 involving participants who pay valuable consideration for the opportunity to compete against each other
18 in a series of live card games conducted over a designated period of time.

19 (8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

20 (9) "Department" means the department of justice.

21 (10) "Distributor" means a person who:

22 (a) purchases or obtains from a licensed manufacturer, distributor, or route operator equipment of
23 any kind for use in gambling activities; and

24 (b) sells the equipment to a licensed distributor, route operator, or operator.

25 (11) "Gambling" or "gambling activity" means risking money, credit, deposit, check, property, or
26 any other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation
27 of a gambling device or gambling enterprise. The term does not mean conducting or participating in a
28 promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part
29 1.

30 (12) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot

1 machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling
2 activity.

3 (13) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity,
4 scheme, or agreement to provide gambling or a gambling device to the public.

5 (14) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property
6 to be awarded by purchasing or agreeing to purchase goods or services. The term does not mean:

7 (a) a cash or merchandise attendance prize or premium that county fair commissioners of
8 agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;

9 (b) a promotional game of chance; or

10 (c) an amusement game regulated under chapter 6 of this title.

11 (15) "Gross proceeds" means gross revenue received less prizes paid out.

12 (16) "Illegal gambling device" means a gambling device not specifically authorized by statute or by
13 the rules of the department. The term includes:

14 (a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may
15 match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push
16 card, tip board, pickle ticket, break-open, or jar game, except for one used ~~under chapter 7 or~~ under part
17 5 of this chapter or in a promotional game of chance approved by the department; and

18 (b) an apparatus, implement, or device, by whatever name known, specifically designed to be used
19 in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table,
20 or craps table or a slot machine except as provided in 23-5-153.

21 (17) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically
22 authorized by a statute or a rule of the department. The term includes:

23 (a) a card game, by whatever name known, involving any bank or fund from which a participant
24 may win money or other consideration and that receives money or other consideration lost by the
25 participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de
26 fer;

27 (b) a dice game, by whatever name known, in which a participant wagers on the outcome of the
28 roll of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by
29 23-5-160; and

30 (c) sports betting, by whatever name known, in which a person places a wager on the outcome

1 of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those
2 activities authorized in chapter 4 of this title and parts 2, 5, and 8 of this chapter.

3 (18) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal
4 rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized
5 equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

6 (19) "Keno caller" means a person 18 years of age or older who, using authorized equipment,
7 announces the order of the numbers drawn in live keno.

8 (20) "License" means a license for an operator, dealer, card room contractor, manufacturer of
9 devices not legal in Montana, sports tab card manufacturer, manufacturer of electronic live bingo or keno
10 equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

11 (21) "Licensee" means a person who has received a license from the department.

12 (22) "Live card game" or "card game" means a card game that is played in public between persons
13 on the premises of a licensed gambling operator or in a senior citizen center.

14 (23) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of
15 property among persons who have paid or promised to pay valuable consideration for the chance of
16 obtaining the property or a portion of it or for a share or interest in the property upon an agreement,
17 understanding, or expectation that it is to be distributed or disposed of by lot or chance. ~~The term does not
18 mean lotteries authorized under chapter 7 of this title.~~

19 (24) "Manufacturer" means a person who assembles from raw materials or subparts a completed
20 piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the
21 equipment directly to a licensed distributor, route operator, or operator.

22 (25) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious,
23 scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization
24 established for purposes other than to conduct a gambling activity.

25 (26) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and
26 operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1
27 through 8 of this chapter.

28 (27) "Permit" means approval from the department to make available for public play a gambling
29 device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

30 (28) "Person" or "persons" means both natural and artificial persons and all partnerships,

1 corporations, associations, clubs, fraternal orders, and societies, including religious and charitable
2 organizations.

3 (29) "Premises" means the physical building or property within or upon which a licensed gambling
4 activity occurs, as stated on an operator's license application and approved by the department.

5 (30) "Promotional game of chance" means a scheme, by whatever name known, for the disposal
6 or distribution of property among persons who have not paid or are not expected to pay any valuable
7 consideration or who have not purchased or are not expected to purchase any goods or services for a
8 chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by
9 simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device
10 or enterprise approved by the department that was manufactured or intended for use for purposes other
11 than gambling.

12 (31) "Public gambling" means gambling conducted in:

13 (a) a place, building, or conveyance to which the public has access or may be permitted to have
14 access;

15 (b) a place of public resort, including but not limited to a facility owned, managed, or operated by
16 a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable
17 organization; or

18 (c) a place, building, or conveyance to which the public does not have access if players are publicly
19 solicited or the gambling activity is conducted in a predominantly commercial manner.

20 (32) "Raffle" means a form of lottery in which each participant pays valuable consideration for a
21 ticket to become eligible to win a prize. Winners must be determined by a random selection process
22 approved by department rule.

23 (33) "Route operator" means a person who:

24 (a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind
25 for use in a gambling activity;

26 (b) leases the equipment to a licensed operator for use by the public; and

27 (c) may sell to a licensed operator equipment that had previously been authorized to be operated
28 on a premises.

29 (34) "Senior citizen center" means a facility operated by a nonprofit or governmental organization
30 that provides services to senior citizens in the form of daytime or evening educational or recreational

1 activities and does not provide living accommodations to senior citizens. Services qualifying under this
 2 definition must be recognized in the state plan on aging adopted by the department of public health and
 3 human services.

4 (35) "Slot machine" means a mechanical, electrical, electronic, or other gambling device,
 5 contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or
 6 upon payment of any valuable consideration, is available to play or operate, the play or operation of which,
 7 whether by reason of the skill of the operator or application of the element of chance, or both, may deliver
 8 or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise,
 9 tokens, or anything of value, whether the payoff is made automatically from the machine or in any other
 10 manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

11 (36) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter
 12 and the rules of the department."
 13

14 **Section 7.** Section 23-5-114, MCA, is amended to read:

15 **"23-5-114. Department employees -- activities prohibited.** (1) An employee of the department
 16 directly involved with the prosecution, investigation, regulation, or licensing of gambling, as designated by
 17 the attorney general, may not:

18 (a) serve as an officer of a business or organization that conducts a gambling activity, other than
 19 as an officer of a nonprofit organization;

20 (b) be employed by a licensed operator in any capacity that requires assisting in conducting a
 21 gambling activity regulated under parts 1 through 6 of this chapter or maintaining records for the gambling
 22 activity;

23 (c) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a
 24 gambling device, the conduct of a gambling activity, or the provision of independent consultant services
 25 in connection with a gambling activity; or

26 (d) participate in a gambling activity governed by parts 1 through 6 of this chapter, except in
 27 performing assigned employment duties. An employee may participate in a gambling activity governed by
 28 chapter 4 ~~or 7~~ of this title.

29 (2) The prohibitions in subsections (1)(a) through (1)(c) apply to a former designated department
 30 employee during the first year following termination from employment with the department if the employee

1 was directly involved with the prosecution, investigation, regulation, or licensing of gambling immediately
2 before termination."

3
4 **NEW SECTION. Section 8. Repealer.** Sections 15-30-246, 15-30-247, 23-7-101, 23-7-102,
5 23-7-103, 23-7-110, 23-7-201, 23-7-202, 23-7-210, 23-7-211, 23-7-212, 23-7-301, 23-7-302, 23-7-305,
6 23-7-306, 23-7-307, 23-7-310, 23-7-311, 23-7-312, 23-7-401, 23-7-402, 23-7-410, 23-7-411, and
7 23-7-412, MCA, are repealed.

8
9 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 1997.

10 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0268, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an Act eliminating the Montana State Lottery.

ASSUMPTIONS:

Department of Commerce/Montana Lottery:

1. The elimination of the Montana Lottery will reduce the revenue to the general fund.
2. HJR 2 assumes transfers to the general fund will be \$7,266,000 in FY 98 and \$6,838,000 in FY 99.
3. Gross sales of \$29,858,000 in FY 98 and \$28,949,000 are expected in HJR 2.
4. The Montana Lottery is a proprietary program and as such their spending authority is not appropriated in HB 2.
5. There will be a significant loss in commissions paid to retail vendors. Retailer commissions in fiscal year 1996 were \$1.7 million.

FISCAL IMPACT:

Department of Commerce
Montana Lottery:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Gross Lottery sales	(29,858,000)	(28,949,000)
Prizes and operating costs	(22,592,000)	(22,111,000)
Net transfer to general fund (01)	(7,266,000)	(6,838,000)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The economic impact of diverting approximately \$31.7 million of fiscal year 1996 ticket sales for other expenditures is unknown. Alternative choices made by the people currently expending those dollars on ticket sales would be so diverse as to make it impossible to calculate.

Dave Lewis 2-2-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Keating 2/8/97

THOMAS KEATING, PRIMARY SPONSOR DATE

Fiscal Note for SB0268, as introduced

SB 268

